

CALCANNABIS CULTIVATION LICENSING
PROPOSED TEXT OF REGULATIONS

CALIFORNIA CODE OF REGULATIONS
TITLE 3. FOOD AND AGRICULTURE
DIVISION 8. CANNABIS CULTIVATION

CHAPTER 2. CANNABIS APPELLATIONS PROGRAM

Article 1. Definitions

§ 9000. Definitions.

The following definitions apply to this chapter:

- (a) "Cultivar" means a cultivated variety, trade designation, or strain of cannabis.
- (b) "Petitioning organization" means a group of licensed cultivators representing three or more unique businesses within the geographical area of the proposed appellation of origin.
- (c) "Petitioner" means the licensee designated by the petitioning organization to be the primary contact for the petition.
- (d) "Practice" means an allowed or prohibited method of cultivation or method of conducting commercial cannabis activity.
- (e) "Standard" means a measurable, scorable, or certified requirement applicable to the cannabis or cultivation.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

Article 2. Petitions

§ 9100. Submission of Petitions.

- (a) A petitioning organization may submit a petition to the department to:
 - (1) Establish a new appellation of origin; or
 - (2) Amend an existing appellation of origin.
- (b) Petitions shall be submitted to the mailing address or email address listed on the Cannabis Appellations Program webpage on the department's website.
- (c) Petition submission fees, pursuant to section 9101 of this chapter, shall be paid at the time the petition is submitted to the department.

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(d) Petition proposal fees, pursuant to section 9101 of this chapter, shall be paid at the request of the department according to section 9200, subdivision (b) of this chapter.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9101. Petition Fees.

(a) The following are the non-refundable petition fees for the specified petitions:

(1) Petition to Establish an Appellation of Origin:

(A) A petition submission fee of \$2,850; and

(B) A petition proposal fee of \$14,250.

(2) Petition to Amend an Appellation of Origin:

(A) A petition submission fee of \$1,425; and

(B) A petition proposal fee of \$7,125.

Authority: Sections 26012, 26013, 26063, and 26180, Business and Professions Code. Reference: Sections 26012, 26013 and 26180, Business and Professions Code.

§ 9102. Petition to Establish an Appellation of Origin.

A petition to establish a new appellation of origin shall include:

(a) Petitioner name, license numbers issued by the department, primary contact phone number, email address, and preferred method of contact;

(b) Names, license numbers issued by the department, and signatures of individuals in the petitioning organization;

(c) A general description and location of the proposed geographical area which may include information such as total acreage of the area, total canopy acreage within the area that is currently occupied under licensed commercial cannabis cultivation, and estimated cannabis canopy acreage eligible to use the proposed appellation of origin;

(d) Evidence of name use pursuant to section 9104 of this chapter;

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- (e) A description and documentation of the boundary of the proposed appellation of origin pursuant to section 9105 of this chapter;
- (f) A description and evidence of distinctive geographical features affecting cannabis produced in the boundary of the proposed appellation of origin pursuant to section 9106 of this chapter;
- (g) Identification and definition of all standard, practice, and cultivar requirements of the proposed appellation of origin pursuant to section 9107 of this chapter;
- (h) A description and evidence of the legacy, history, reputation, and economic importance of cannabis production in the area;
- (i) If the proposed appellation of origin is located either partially or fully within the geographical area of another appellation of origin, an explanation of how the proposed appellation of origin is distinct from the existing appellation of origin; and
- (j) Practice requirements described according to section 9107 of this chapter ensuring that the appellation of origin be applicable only to cannabis that is planted in the ground in the canopy area; cultivated without the use of structures including a greenhouse, hoop house, glasshouse, conservatory, hothouse, or any similar structure covering the plant or modifying the natural light received by the plant in the canopy area; and cultivated without any artificial light in the canopy area pursuant to Business and Professions Code section 26063, subdivision (c).

Authority: Section 26063, Business and Professions Code. Reference: Sections 26061 and 26063, Business and Professions Code.

§ 9103. Petition to Amend an Appellation of Origin.

A petition to amend any parts of an established appellation of origin shall include:

- (a) All requirements of section 9102;
- (b) A summary description of the amendments to the appellation of origin and the reason for each amendment;
- (c) An explanation of how the amended appellation of origin preserves the causal links between the geographical features and the cannabis, consistent with section 9106; and
- (d) Evidence supporting the amendments.

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Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9104. Evidence of Name Use.

The petition shall describe the name and history of the proposed appellation of origin, including:

(a) In narrative form, an explanation of how the name has been used in the geographical area covered by the proposed appellation of origin, supported by evidence of name usage. The relationship of the name and boundary of the proposed appellation of origin should be thoroughly explained; and

(b) Evidence of name usage shall conform to the following requirements:

(1) Evidence shall be appropriately cross-referenced in the petition;

(2) Evidence shall demonstrate the proposed name is directly associated with an area in which licensed cannabis cultivation exists;

(3) Evidence to support the proposed name shall come from sources independent of the petitioner; and

(4) Appropriate name evidence sources include but are not limited to historical and modern government or commercial maps, books, newspapers, magazines, tourist and other promotional materials, local business or school names, and road names.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9105. Maps and Boundary Description.

The petition shall describe the area and boundary of the proposed appellation of origin, including:

(a) The proposed boundary shall be depicted on United States Geological Survey topographical maps and shall conform to the following:

(1) The scale shall be large enough to show adequate geographical detail of the proposed boundary line.

(2) The exact boundary of the appellation of origin shall be prominently and clearly drawn on the maps without obscuring the underlying features that define the boundary line.

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(b) A detailed narrative description of the proposed boundary. The description shall have a specific beginning point, shall proceed unbroken from that point in a clockwise direction, and shall return to that beginning point to complete the boundary description. The proposed boundary description may rely on any of the following map features:

- (1) State, county, township, forest, and other political entity lines; except the boundary cannot be based solely on the political entity lines of a single county, city, or city and county;
- (2) Highways, roads (including unimproved roads), and trails;
- (3) Contour or elevation lines;
- (4) Natural geographical features, including rivers, streams, creeks, ridges, and marked elevation points (such as summits or benchmarks);
- (5) Human-made features (such as bridges, buildings, windmills, or water tanks); and
- (6) Straight lines between marked intersections, human-made features, or other map points.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9106. Geographical Features.

The petition shall include:

(a) A narrative description of the distinctive geographical features affecting cannabis production. Examples include, but are not limited to:

- (1) Climate information which may include temperature, precipitation, wind, fog, solar orientation and radiation;
- (2) Geological information which may include underlying formations, landforms, and such geophysical events as earthquakes, eruptions, and major floods;
- (3) Soil features which may include microbiology and soil series or phases of a soil series;
- (4) Physical features which may include flat, hilly, or mountainous topography, geographical formations, bodies of water, watersheds, and irrigation resources; and
- (5) Minimum and maximum elevations.

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- (b) Substantial evidence that the geographical area is distinctive when compared to areas outside the proposed boundary and to other relevant areas which produce cannabis for sale into the marketplace;
- (c) A description of the quality, or characteristics of the cannabis which are essentially or exclusively caused by one or more distinctive geographical feature(s), including an explanation of how the distinctive geographical feature(s) cause(s) the cannabis to have that quality, or characteristic; and
- (d) Identification of at least one specific standard, practice, or cultivar requirement which acts to preserve the causal link(s) between one or more distinctive geographical feature(s) and the cannabis, including:
- (1) Description of the mechanism by which the requirement preserves or maintains the causal link; and
 - (2) A clear distinction between cultivation methods which are allowed and prohibited under each requirement.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9107. Standard, Practice, and Cultivar Requirements.

The petition shall identify and define at least one of each of the following production requirements for the proposed appellation of origin: standard, practice, and cultivar.

- (a) Standard, practice, and cultivar requirements shall be reviewed for clarity. To satisfy this review the following conditions shall be met:
- (1) The standard, practice, and cultivar requirements must be reasonable and logical and cannot have more than one meaning;
 - (2) The standard, practice, and cultivar requirements cannot conflict with one another or any other information provided in the petition;
 - (3) The meaning of terms used in the standard, practice, and cultivar requirements are generally familiar to other licensed cultivators;
 - (4) The language used for the standard, practice, and cultivar requirements is correct including grammar, punctuation, and spelling;
 - (5) The standard, practice, and cultivar requirements are presented in a format that is readily understandable by the public; and

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(6) Licensees understand the requirements necessary to qualify for use of the appellation of origin.

(b) Standard requirements in a petition shall be either:

(1) Composed of upper limits, lower limits, or accepted ranges of measurable or scorable characteristics, including measurement and variance tolerances; or

(2) Program-level certifications granted by a certifier in good standing according to the certification owner; including but not limited to those associated with the department's comparable-to-organics certification program or certification marks registered with the United States Patent and Trademark Office and applicable to cannabis.

(c) Practice requirements in a petition shall:

(1) Include a description of the practice requirement to allow any licensed cultivator within the appellation of origin to comply without substantial additional research, and in plain language to provide clear understanding to the public; and

(2) Not use any term likely to mislead consumers as to the practice or its implementation.

(d) Cultivar requirements in a petition may take the form of:

(1) Allowed or prohibited lists of cultivar names, which may contain any number of entries including zero; or

(2) Requirements including genetic testing, seed or plant specimen preservation, or cultivar identity certification with identified limits on acceptable methods, vendors, and practices.

(e) Each standard, practice, and cultivar requirement shall include description of a mandatory mechanism by which compliance with the requirement shall be documented and supported by record retention pursuant to cannabis licensing record retention regulations. Appellation compliance documentation shall be thorough and appropriate to the requirement to allow determination of compliance based solely upon review of the records.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

Article 3. Petition Review Process

§ 9200. Petition Review.

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- (a) The department shall notify the petitioner by e-mail when the petition is received. A petition shall not be deemed received unless the petition submission fee is submitted in full along with the petition.
- (b) If the department finds that the petition is complete and accepts it for further review, the department shall send a notice to the petitioner requesting payment of the petition proposal fee. The petitioner shall pay the petition proposal fee before the notice of proposed action is issued pursuant to section 9201. The petitioner shall have 120 days from the date of the request to submit the payment to the department. If the petition proposal fee is not submitted in full, the department shall notify the petitioner by e-mail that the petition is abandoned and shall no longer be considered by the department.
- (c) If the department receives the petition proposal fee in full, the department shall issue notice of proposed action on the petition pursuant to Section 9201.
- (d) If the department finds that the petition is incomplete or additional information is required to make a decision on the petition, the department shall notify the petitioner in writing of what information the petitioner needs to provide.
- (e) If the department has not received a response acknowledging receipt of an appellation petition deficiency notice from the petitioner within 60 days from the date on the appellation petition deficiency notice, or if the petitioner fails to provide the requested information within 180 days from the date on the appellation petition deficiency notice, the department shall notify the petitioner by e-mail that the petition is abandoned and shall no longer be considered by the department.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9201. Notice of Proposed Action on Appellation of Origin.

- (a) Following determination that a petition is complete and payment of the petition proposal fee pursuant to section 9200 of this chapter, the department shall provide public notice of proposed action to establish or amend the appellation of origin. The public will have 90 days from the initial date identified in the notice to provide comments on the petition. Comments shall be submitted to the contact person identified in the notice and received by the final day identified in the notice. The department may extend the comment period in response to a request showing a reasonable basis for extension.

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(b) A notice of proposed action on an appellation of origin shall include weblinks to:

- (1) The completed petition;
- (2) A map of the area described by the petition; and
- (3) The standard, practice, and cultivar requirements identified in the petition.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9202. Notice of Final Decision on Appellation of Origin.

(a) The department shall provide notice of final decision on a petition for an appellation of origin (i.e. established, amended, or denied on its website and by e-mail to:

- (1) The petitioner;
- (2) Designated responsible parties of licenses issued by the department and located within the areas directly impacted by the decision; and
- (3) Stakeholders enrolled on the department's Cannabis Appellations Program Mailing List. Enrollment on to the department's Cannabis Appellations Program Mailing List can be requested by any stakeholder using an electronic request form on the Department of Food and Agriculture's Cannabis Appellations Program webpage or by submitting a written request to the mailing address or email address listed on the Cannabis Appellations Program webpage.

(b) If the petition is denied, the notice of final decision shall include all of the reasons why the petition was denied.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9203. Denial of Petition for Appellation of Origin.

The Department may deny the petition for the following reasons:

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- (a) Evidence is not sufficient to demonstrate the legacy, history, reputation, and economic importance of cannabis production in the proposed geographical area pursuant to section 9102, subdivision (h);
- (b) Evidence is not sufficient to demonstrate that the proposed appellation name has been used in direct association with a cannabis production area pursuant to section 9104, subdivisions (b)(2) through (b)(4) of this chapter;
- (c) Evidence is not sufficient to demonstrate that the proposed geographical area is distinctive with respect to the geographical features affecting cannabis pursuant to section 9106, subdivision (b) of this chapter;
- (d) Proposed geographical features as described are not causally-linked to the cannabis or the causal links are not maintained according to the standards set forth in section 9106, subdivisions (c) and (d) of this chapter;
- (e) Proposed standard, practice, and cultivar requirements do not meet the clarity, form, or recordkeeping standards set forth in section 9107, subdivisions (a) through (e) of this chapter;
- (f) Amendments to the appellation of origin are not consistent with the proposed geographical features according to section 9103, subdivisions (b) through (d) of this chapter; and
- (g) Any other reasonable cause submitted through the public comment process that the department determines would preclude the appellation from being established or amended.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.